IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 704 OF 2005

WITH

CIVIL APPLICATION NO.805 OF 2005

Kishore Kailash Thakur .. Appellant

versus

Bombay Municipal Corporation & Anr. .. Respondents

...

Mr.S.A. Dhamale for the appellant.

Ms.Geeta Joglekar for the respondents

CORAM : B.H. MARLLAPALLE,J

DATED : 22nd August 2005.

P.C.:

1. Notice of Motion no. 895/05 was taken in L.C. Suit No. 5991/2004 praying for temporary injunction against the Municipal Corporation from demolishing/removing the suit shop admeasuring 6' x 6'. However when the said Notice of Motion came up

before the trial Court on 6th June 2005, the learned counsel for the plaintiff stated before the trial Court that on 18.5.2005, the Officers of the Corporation had partly demolished the suit structure and the learned counsel for the Corporation stated that it had followed the due process of law and the structure was fully demolished. The prayer for ad-interim relief was therefore turned out by the trial Court on 6th June 2005.

2. A Notice of Motion was made returnable on 11th July 2005. This order has been challenged in the instant appeal and there is no protection necessary as at present. This appeal can be disposed of by directing to hear and decide the pending Notice of Motion.

3. The learned counsel for the plaintiff states that Notice of Motion no.859 of 2005 is now adjourned to 30th August 2005 and the respondent Corporation has not yet filed its reply.

4. The respondent Corporation is hereby directed to file its reply to the Notice of Motion by 13th April 2005 and the Notice of Motion shall be

heard and decided preferably by 31.10.2005.

5. Appeal is disposed of in terms of the above directions.

6. Civil Application no.805 of 2005 does not survive and is disposed of.

B.H. MARLAPALLE, J